

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-004447

04/12/2011

HON. JOHN REA

CLERK OF THE COURT
L. Gilbert
Deputy

MATTHEW THILL

WILLIAM A KOZUB

v.

NICHOLAS NORTON, et al.

JASON E SMITH

MINUTE ENTRY

After oral argument on the parties' Cross-Motions for Summary Judgment, the Court took the contested issues under advisement.

IT IS ORDERED Plaintiff Alisanos Community Association's Motion for Summary Judgment is denied.

IT IS FURTHER ORDERED Defendant Thill's Motion for Summary Judgment is granted.

Defendant Matthew Thill holds legal title to the property governed by the CC&Rs of the Alisanos Community Association by virtue of a Quit Claim under which Nicholas Norton quit claimed the property to Matthew Thill "as Trustee of 8068 S Stephanie Lane Family Trust." There is a Trust Agreement executed by Norton and Thill that describes Norton as Beneficiary and Thill as Trustee.

Section 1.17 of the CC&Rs defines "owner" as "the record Owner . . . of beneficial or equitable title . . . to the fee simple interest of a Lot." While the Trust Agreement is internally contradictory in some respects – it is clearly a Trust Agreement yet it purports to convey both

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-004447

04/12/2011

legal and equitable title to the Trustee – it is clear that the Agreement intended to vest title in Thill as a Trustee and that the Beneficiary Norton may reclaim the property at any time.

Under the undisputed facts, the Court finds that Defendant Thill does not fall with the definition of “Owner” under the CC&Rs.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Orders 2010-117 and 2011-10 to determine their mandatory participation in eFiling through AZTurboCourt.